

**From:** edfagerb@ganymede.or.intel.com@inetgw  
**To:** Microsoft ATR  
**Date:** 1/23/02 5:44pm  
**Subject:** Microsoft Settlement

Dear Sirs:

I would like to make a few comments about the DOJ's proposed settlement with Microsoft.

In the past I have worked for several companies that have been directly damaged by Microsoft's anti-competitive behavior: WordPerfect, Novell, and Corel. Early on in the computer industry you bought a computer and then you bought the software to put on it. Then came the age of OEM bundling. At first it seemed like a great idea but then big companies with commanding market share started leaning on OEMs to bundle more of their software and less of their competitors. WordPerfect, Lotus 1-2-3, and Netscape all died as a result of just this sort of tactic by Microsoft.

Even the Intel division I used to work for was sent into a tailspin by Microsoft bundling pieces of SMS (previously a completely separate product) into Windows 2000. The LANDesk Management Suite group employs about half as many people as it used to because they are losing market share. SMS didn't get any better it just got a better distribution channel.

Now with the release of Windows XP there is a new list of targets. RealNetworks is the one that comes most readily to mind. I can tell you that if I had any of their stock I would have already sold it. The audio and video streaming stuff that Microsoft has bundled in to XP is directly aimed at taking them out.

So as I see it, Microsoft has done two sorts of anticompetitive things. One, use their Windows monopoly to force OEMs to bundle Word/Excel/etc. They killed WordPerfect and Lotus with that one. Two, bundle things like their worthless browser into Windows which gives them a tremendous distribution advantage. They killed Netscape with that one.

So where in the proposed settlement is this sort of behavior prevented in the future? No place I can see. And where in the proposed settlement is redress for all the companies (I have only named a couple of the largest) that Microsoft has killed with their anticompetitive behavior? It isn't there. So what sort of a proposed settlement is this? A pretty lousy one. One that holds every bit as much weight as the 1995 consent decree which they were wiggling around and flouting before the ink was even dry.

And what of the highly vaunted "right to innovate"? Well, the

government tried to reign Microsoft in and failed (for whatever reason) and now what little or even big company is going to go up against a company that wields its monopoly power with such might that not even the government can stop them? Only the very foolish. The only innovation we will see is what Microsoft decides to give us. And all the great ideas that could have been will never be.

In short, the DOJ has failed us. The settlement should be thrown out and the judge should impose a remedy. Judge Jackson did some stupid things but he saw Microsoft for what they are and his remedy would have gone a long way towards preventing further occurrences. I would like to see prevention \_and\_ redress addressed in any settlement or imposed remedy. Justice demands nothing less.

Sincerely,  
Eric Fagerburg

--my views are my own and in no way represent the views of my employer  
Intel--